

February 2, 2026

Dr. Mehmet Oz, Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Baltimore, MD 21244

Re: 90 FR 55687, Medicare and Medicaid Programs;
Repeal of Minimum Staffing Standards for
Long-Term Care Facilities; CMS-3442-IFC

Dear Dr. Oz:

On behalf of nursing home residents, their families, and nursing home workers, the undersigned organizations submit the following comments in strong opposition to the interim final rule, “Medicare and Medicaid Programs; Repeal of Minimum Staffing Standards for Long-Term Care Facilities” (90 FR 55687) published on December 3, 2025 in which the Center for Medicare and Medicaid Services (CMS) proposes to rescind large portions of the nursing home minimum staffing rule finalized in May 2024. The standards set by the minimum staffing rule are the most significant increase in protections for nursing home residents in decades. The minimum staffing rule CMS plans to rescind is estimated to save at least 13,000 lives annually and will result in a significant increase in the quality of life for nursing home residents. Its rescission will be catastrophic for nursing home residents, their families, and nursing home workers.

The minimum staffing rule is the product of a rigorous and evidence-based regulatory process. It relies on decades of research showing that nursing homes with higher staffing levels have better health outcomes. There was an opportunity for public comment, which overwhelmingly supported the rule. Importantly, the rule considers the challenges that some nursing homes face in hiring staff by providing lengthy implementation dates and significant opportunities for exemptions.

CMS cites Congress’s recent action to suspend the rule’s implementation until 2034 as a reason for rescission. Congress had the authority to repeal the rule but instead chose to postpone its implementation. To comply with Congress’s intent, CMS should issue a regulation reflecting these new implementation dates. Furthermore, CMS offers no plan or alternative to address the staffing crisis in nursing homes, despite its statutory duty to ensure nursing homes have sufficient staff.

We urge CMS to rescind the interim final rule and stand with the hundreds of thousands of nursing home residents, their families, and workers.

Staffing Matters

The majority of nursing home residents are older adults with disabilities, complex care needs, and multiple co-morbidities. To be admitted to a nursing home, individuals must have medical needs that require skilled nursing care. A nursing home facility must provide an adequate number of nurses with appropriate training, skills, and experience to meet residents' physical, mental, and psychosocial needs.ⁱ This requirement is necessary to meet the facility's obligation to provide a quality of life for residents that ensures dignity, respect, choice, and freedom from abuse and neglect.ⁱⁱ Nursing homes are mandated to undertake annual needs assessments.ⁱⁱⁱ Adequate staffing levels are determined by evaluating individual residents' acuity (care needs) and determining the number and type of staff required to meet the aggregate needs of all residents.^{iv}

If adequate staffing is not provided, the residents will not have their needs met and residents will inevitably suffer harm and neglect, through delays and omissions in care. Lower quality of care, will result in serious problems such as a loss of dignity, increased mental health issues, pressure injuries, urinary tract infections, pneumonia, malnutrition, dehydration, decrease in function and increased dependence for activities of daily living^v, increased use of physical and chemical restraints, increased hospitalizations, physical pain and injuries, and even death. This opinion is supported by multiple research studies documenting a direct relationship between residents' care outcomes that increase positively with higher nursing staff hours, and decrease negatively with lower nursing staff hours.^{vi} Nurse staffing levels have also been shown to impact the number of care deficiencies from state surveys.^{vii}

The Minimum Staffing Final Rule is Modest and Responds to Industry Concerns

In the preface to the interim final rule, CMS cites industry concerns about workforce shortages and the impact of the rule on rural facilities. But the final rule already addresses those concerns. Despite decades of evidence supporting the need for at least 4.1 hours of care per resident per day (HPRD) to meet residents' most basic needs, the final rule requires only 3.48 hours HPRD. The rule also allows a generous period of time to prepare for the rule's implementation, granting urban facilities 2 years for implementation of the 24-hour RN requirements and 3 years for implementation of the minimum staffing hours. In addition, in response to industry allegations that rural facilities will have more difficulty complying with the requirements, the final rule delays implementation for rural facilities to 3 years for the RN requirement and 5 years for the minimum staffing standard.

Given Congress' suspension of implementation of the rule until 2034, nursing homes will have an extraordinarily long period of time to prepare for implementation of this modest

rule. If nursing homes are unable to comply with the staffing standards after the extended implementation period, the final rule permits facilities to seek an exemption that could excuse them from meeting the requirements, potentially for years, and with no additional oversight.

Having thoroughly addressed the industry's apprehensions in the final rule, and because Congress as extended the implementation timeline, there is no justification for rescinding the final rule at the cost of ensuring safe care. Importantly, Medicare and Medicaid are voluntary programs. Nursing homes are not compelled to participate. Nursing homes disinterested in meeting the modest standard do not have to participate in the programs and are free from complying with the staffing standard.

Failure to Mandate Staffing Levels Has Permitted Nursing Homes to Divert Funds from Creating Quality Jobs and Driven by Extremely High Turnover

Staffing challenges in nursing homes are longstanding and well-documented. Chronic understaffing is not inevitable. Rather, it reflects a combination of structural, operational, and policy choices that have persisted for decades across much of the industry.

Ownership structure plays a significant role in staffing. The majority of nursing homes are for-profit. These facilities consistently staff at lower levels than nonprofit and publicly owned facilities.^{viii} Nurse staffing is the largest expense in nursing homes. Tracking funds in large corporate chains and private equity-owned facilities, we frequently see resources diverted to management fees, real estate arrangements, and investor returns rather than to adequate direct care staffing for which funds were intended. As a result, staffing decisions are led by financial considerations rather than resident care needs.^{ix}

Nursing homes' difficulty in recruiting and retaining staff is further driven by poor job quality, including low wages and benefits, excessive workloads, unsafe working conditions, limited opportunities for advancement, and a lack of respect for direct care workers.^x This problem leads to chronic understaffing where workers, have unrealistic workloads. Low staffing affects staff by increasing physical strain, workplace injuries, burnout, and moral distress when workers cannot provide the care residents need.

The average nursing home turns over more than half of its nursing staff each year, with certified nursing assistant (CNA) turnover frequently far higher.^{xi} Turnover is strongly associated with chronic understaffing and excessive workloads.^{xii} Research has demonstrated that higher numbers of CNA hours per resident day are associated with improved retention,^{xiii} underscoring that adequate staffing levels are essential to workforce stability.

Without clear, enforceable staffing standards, the problems that plague the nursing home workforce will persist, placing residents at risk and undermining efforts to build a stable, qualified nursing home workforce.

Ensuring Sufficient Staffing Going Forward

If CMS proceeds with rescinding the final staffing rule, the agency's statutory obligations do not change. Nursing homes are still required—under existing federal law—to provide sufficient nursing staff to meet the needs of every resident, every day.^{xiv} Rolling back the rule does not roll back this mandated responsibility.

Looking forward, CMS should commit to advancing a transparent, acuity-based staffing model that reflects the needs of all residents. Such a model must:

- Be grounded in resident acuity, recognizing that staffing needs vary widely based on clinical complexity, functional limitations, cognitive status, and behavioral health needs.
- Ensure that every resident's needs are fully met, by aggregating residents' needs across a facility and accurately calculating and meeting staffing requirements.
- Account for the skills and competencies required to deliver high-quality care, including the appropriate skill mix of RNs, LPNs/LVNs, CNAs, and specialized staff.

A modernized staffing framework should not be viewed as optional or aspirational. It is essential to ensuring that nursing homes fulfill their core mission: providing safe, dignified, person-centered care to some of the nation's most vulnerable individuals. CMS must remain vigilant, enforce existing standards, and lead the development of a staffing model that reflects the realities of resident care today.

Sincerely,

AARP

Access Ready Inc.

AFL-CIO

AgeUp, Inc.

Agile Aging LLC

Alliance for Retired Americans

Alliance of New York Family Councils

Allies for Independence

American Association on Health and Disability

American Federation of State, County and Municipal Employees (AFSCME)

American Foundation for the Blind

American Geriatrics Society

American Nurses Association

American Therapeutic Recreation Association
Ashby Village
Association on Aging in New York
Autistic Self Advocacy Network (ASAN)
Autistic Women & Nonbinary Network
California Long-Term Care Ombudsman Association
Caregivers for Compromise
Center for Elder Law & Justice
Center for Medicare Advocacy
CommunicationFIRST
Compassion & Choices
Dermatology Nurses' Association
Dignity Alliance Massachusetts
Dignity for the Aged
Disability Rights New Jersey
Diverse Elders Coalition (DEC)
Elder Justice Coalition
Elder Justice Committee of Metro Justice
Family Member of Nursing Home Occupant
Florida Health Justice Project
Foundation Aiding The Elderly (FATE)
Friends of Residents in Long Term Care
Geriatric Circle
Senior WISE
Gray Panthers NYC
HCA/PNHP-Humboldt
Health Care for US
International Association for Indigenous Aging
Justice in Aging
Kansas Advocates for Better Care
Kelinson & Lerner, PLC
Kentucky State LTC Ombudsman Program
Lakeshore Foundation
Long Term Care Community Coalition
Long Term Care Ombudsman Program State Council
LowCountry Council of Governments Regional LongTerm Care Ombudsman
Maine Long Term Care Ombudsman Program
Michigan Elder Justice Initiative
Minnesota Office of Ombudsman for Long-Term Care
Missouri Alliance for Long-Term Care Reform
Missouri Hospice and Palliative Care Association
National Academy of Elder Law Attorneys (NAELA)
National Adult Protective Services Association
National Association of Local Long Term Care Ombudsman

National Association of Social Workers (NASW)
National Association of State Long-Term Care Ombudsman Programs
National Committee to Preserve Social Security and Medicare
National Consumer Voice for Quality Long-Term Care
National Indian Council on Aging
National Partnership for Women & Families
Nevada Long-Term Care Ombudsman Program
New Haven Legal Assistance Association
NHCOA
NJ Office of the Long-Term Care Ombudsman
North Carolina Advocates for Justice
North Carolina Regional Ombudsman Association
Nurse advocates LLC
Nursing Home Ombudsman Agency of the Bluegrass, Inc.
Office of the District of Columbia Long Term Care Ombudsman
Office of the Colorado State Long-Term Care Ombudsman
Office of the State Long -Term Care Ombudsman- Ohio
Office of the State Long-Term Care Ombudsman-Georgia
Oregon Long Term Care Ombudsman
Orthodox Jewish Nurses Association
Our Mother's Voice
Poliakoff & Associates
RI Long Term Care Ombudsman Program
SAGE
SEIU
SeniorLAW Center
State of New Mexico, Aging & Long Term Services
Tennessee Office of the State Long-Term Care Ombudsman
The Hale Group, Iowa-based advocates
The Live Oak Project
Utah Long-Term Care Ombudsman Program
Village to Village Network, Inc
Well Spouse Association
WI Board on Aging and Long Term Care
World Institute on Disability
Wyoming State Long-Term Care Ombudsman

ⁱ 42 U.S.C. § 1395i-3(b)(4)(i)

ⁱⁱ 42 U.S.C. § 1395i-3(c)

ⁱⁱⁱ 42 C.F.R. § 483.71(a)(1)(ii)

^{iv} Id.

^v Activities of daily living (ADLs) include bathing, dressing, transferring (e.g. from bed to chair), going to the toilet, eating and drinking.

^{vi} For example, in 2001, the Center for Medicare and Medicaid Services (CMS) found a clear association between nurse staffing ratios and nursing home quality of care, identifying specific ratios of staff to residents below which residents are at substantially higher risk of quality problems.

^{vii} Kim, H., Harrington, C. & Greene, W. (2009). Registered nurse staffing mix and quality of care in nursing homes: A longitudinal analysis. *Gerontologist*, 49 (1):81-90.

^{viii} Abt Associates, "Nursing Home Staffing Study (2023).

^{ix} Gandhi, A., & Olenski, A. (2024). *Tunneling and Hidden Profits in Health Care* (No. w32258). National Bureau of Economic Research; Harrington CA. Wealth Extraction from a Nursing Home Chain With Individual, Private Equity, and Real Estate Owners. *Int J Soc Determinants Health Health Serv.* 2025 May 11;55(4):463–76. doi: 10.1177/27551938251335565. PMID: PMC12371139; Consumer Voice, "Where Do the Billions of Dollars Go? A Look at Nursing Home Related Party Transactions," (2023).

^x PHI, "Direct Care Workers in the United States," (2025).

Available at <https://www.phinational.org/resource/direct-care-workers-in-the-united-states-key-facts-2025/>

^{xi} Centers for Medicare & Medicaid Services, Provider Information.

Available at <https://data.cms.gov/provider-data/dataset/4pq5-n9py>

^{xii} White, E. M., Aiken, L. H., & McHugh, M. D., "Registered nurse burnout, job dissatisfaction, and missed care in nursing homes," (2019).

Available at <https://pubmed.ncbi.nlm.nih.gov/31334567/>.

^{xiii} Berridge C, Lima J, Schwartz M, Bishop C, and Miller SC, *JAMDA*, "Leadership, Staff Empowerment, and the Retention of Nursing Assistants: Findings from a Survey of U.S. Nursing Homes," (2020).

Available at [https://www.jamda.com/article/S1525-8610\(20\)30147-X/fulltext](https://www.jamda.com/article/S1525-8610(20)30147-X/fulltext).

^{xiv} 42 U.S.C. § 1395i-3(b)(4)(i))